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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/771,095	01/26/2001	David Konetski	16356.578 (DC-02701)	7695
27683	7590	07/27/2006	EXAMINER	
HAYNES AND BOONE, LLP 901 MAIN STREET, SUITE 3100 DALLAS, TX 75202				DALENCOURT, YVES
ART UNIT		PAPER NUMBER		
		2157		

DATE MAILED: 07/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/771,095	KONETSKI ET AL.
	<b>Examiner</b> Yves Dalencourt	<b>Art Unit</b> 2157

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 05 May 2006.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-10, 12-24 and 26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-10, 12-24, and 26 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

  
Yves Dalencourt  
Primary Examiner

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

This office action is responsive to amendment filed on 05/05/2006.

### ***Response to Amendment***

The examiner has acknowledged Applicant's amendment.

### ***Response to Arguments***

Applicant's arguments filed on 05/05/2006 have been fully considered but they are not persuasive.

Applicant argues that the Lai '2004/0193648 A1 is not a proper reference since such reference is a continuation-in-part of US Application No. 10/465,805, filed on June 20, 2003 and issued as US Patent 6,888,477 on May 3, 2005 (the '477 patent), which is a continuation of US Application No. 10/141,966, filed on May 10, 2002, now US Patent 6,593,860 (the '860 patent), which is a continuation of US Application No. 09/742,294, filed on December 22, 2000, now US Patent 6,407,680 (the '680 patent).

The Examiner agrees that the Lai '2004/0193648 A1 is a continuation-in-part of US Application No. 10/465,805, filed on June 20, 2003 and issued as US Patent 6,888,477 on May 3, 2005 (the '477 patent). However, Such publication ('648) is entitled to the US Patent No. 6,470,680 date because the '680 patent discloses the claimed invention. The examiner had realized during the previous office action, that using either one of them ('648 or '680 patent) was going to be a 102 (e) rejection, and the '680 patent covered all the limitations in the claims.

The examiner has mapped claim 1 with the US Patent No. 6,407,680, as an example, to show the Applicant where the limitations are being described in the disclosure of the '680 patent :

**Regarding claims 1 and 15, Lai teaches a system and method comprising a computer system including a processor and a memory (fig. 2;col. 3, lines 2 - 10) for retrieving digital media content (col. 3, lines 11 - 18); performing decompression and decryption functions on the digital media content which vary according to a type of digital media content (col. 3, lines 34 - 50), the functions being able to be performed during and after the digital media content is downloaded (col. 7, lines 39 - 53); temporarily storing the digital media content in the memory for various lengths of time as needed by performance demands (col. 17, lines 51 - 56); buffering the digital media content (col. 1, lines 49 – 56; col. 11, lines 51 - 64); and providing the digital media content as needed via a user interface to a thin media client using a first network (col. 5, line 49 through col. 6, line 13; col. 15, lines 27 – 38; col. 18, lines 16 - 24).**

Applicant is kindly advised to review the US Patent No. 6,407,680 in view of the claimed invention.

As such, the rejection is maintained and sustained as follows:

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 – 10, 12 – 24, and 26 are rejected under 35 U.S.C. 102(e) as being anticipated by Lai et al (US 2004/0193648; hereinafter Lai).

Regarding claims 1 and 15, Lai teaches a system and method comprising a computer system including a processor and a memory (fig. 2; paragraph [0066]) for retrieving digital media content (paragraphs [0030], [0067], and [0127]; **Lai discloses that in response to the transcoding request, to command the transcoding server to fetch (retrieve) the media content**); performing decompression and decryption functions on the digital media content which vary according to a type of digital media content (paragraphs [0143] - [0144]; Lai discloses the task of transcoding the requested media content from the source type into the destination type), the functions being able to be performed during and after the digital media content is downloaded (fig. 5A; paragraphs [0141], [0158 - 0159], and [0188 - 0191]; **Lai discloses the downloading may be fully performed prior to viewing or it may be progressive. That is a portion of the transcode media content may be downloaded and then viewed, while a second portion of the media content is being downloaded**); temporarily storing the digital media content in the memory for various lengths of time (paragraphs [0157] and [0159]; **Lai discloses that a copy of the transcoded media content is temporarily stored in the transcode cache 212, permitting expedited delivery of the media**

**content when subsequent requests for the same media content transcode into the same destination type are received by the media transcoding engine 106); buffering the digital media content (paragraphs [0009], [0066], and [0119]); and providing the digital media content as needed via a user interface to a thin media client using a first network (paragraphs [0030], [0143], and [0162]; **Lai discloses streaming the transcode media content to the viewer client 102).****

Regarding claims 2 – 3 and 16 - 17, Lai teaches the system and method of claims 1 and 15, wherein the thin media client comprises an audio client; and wherein the digital media content comprises an audio file (paragraphs [0005], and [0087] – 0088].

Regarding claims 4 and 18, Lai teaches the system and method of claims 2 and 16, wherein the digital media content comprises realtime audio information (paragraphs [0010], [0014], [0086], and [0138]).

Regarding claims 5 – 6 and 19 - 20, Lai teaches the system and method of claims 2 and 15, wherein the thin media client comprises a video client, and wherein the digital media content comprises video information; and wherein the thin media client comprises an image client, and wherein the digital media content comprises image information (paragraphs [0005] and [0170]).

Regarding claims 7 and 21, Lai teaches the system and method of claims 6 and 15, wherein the computer system is for transcoding the digital media content prior to providing the digital media content to the thin media client (paragraphs [0128] and [0158]).

Regarding claims 8 and 21, Lai teaches the system and method of claims 6 and 15, wherein the computer system is for performing a rights management task associated with the digital media content prior to providing the digital media content to the thin media client (paragraphs [0007], [0141], and 0164]).

Regarding claims 9 and 23, Lai teaches the system and method of claims 6 and 15, wherein the computer system is for performing a decompression function on the digital media content prior to providing the digital media content to the thin media client (paragraph [0144]).

Regarding claims 10 and 24 Lai teaches the system and method of claims 6 and 15, wherein the computer system is for performing a decryption function on the digital media content prior to providing the digital media content to the thin media client (paragraph [0144]; the decryption function is inherently done by the media transcoding engine 106).

Regarding claims 12 and 26, Lai teaches the system and method of claims 6 and 15, wherein the computer system is for providing an interface associated with the thin media client to a user to allow the user to access one or more features of the thin media client (paragraphs [0094] and [0097]).

Regarding claim 13, Lai teaches the system of claim 6, wherein the computer system is for retrieving the digital media content using a second network (paragraph [0085]).

Regarding claim 14, Lai teaches the system of claim 6, wherein the first network comprises a home network (paragraphs [0087], [0089], and 0093]).

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yves Dalencourt whose telephone number is (571) 272-3998. The examiner can normally be reached on M-TH 7:30AM - 6: 00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Yves Dalencourt  
  
July 19, 2006